



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Ely District Office

702 N. Industrial Way

Ely, Nevada 89301-9408

http://www.blm.gov/nv/st/en/fo/ely_field_office.html

In Reply Refer To:
8380 (NVL00000)

APR 01 2016

DECISION RECORD **For the** **Bureau of Land Management, Ely District** **Cave & Karst Management Plan and Environmental Assessment** **DOI-BLM-NV-L0000-2015-0001-EA**

DECISION

It is my decision to approve and implement the Ely District Cave & Karst Management Plan and Environmental Assessment (EA) (<http://1.usa.gov/1KaH1uG>). The Proposed Action is in conformance with the Ely District Record of Decision and Approved Resource Management Plan (RMP) (2008), as amended. See Section 2.2 of the Environmental Assessment for a summary description of the Proposed Action. Resource and visitor use monitoring requirements are described throughout the Plan in Chapter 3: Planned Management Actions.

LEGAL COMPLIANCE

The Ely District Cave & Karst Management Plan and Environmental Assessment is in compliance with the following:

- Antiquities Act of 1906, Public Law (P.L.) 59-209 34 Stat. 225 (16 United States Code (U.S.C.) §§ 431- 433).
- Wilderness Act of 1964, P.L. 88-577 (16 U.S.C. §§ 1131-1136, September 3, 1964, as amended 1978).
- Title 54 U.S.C. §300101, *et. seq.*, commonly known as the National Historic Preservation Act of 1966, as amended.
- National Environmental Policy Act of 1969, P.L. 91-190 (42 U.S.C. §§ 4321-4347, January 1, 1970, as amended 1975 and 1994).
- Endangered Species Act of 1973, PL 93-293 (16 U.S.C. §§ 1531-1544, December 28, 1973, as amended 1976-1982, 1984, and 1988).
- State of Nevada, Register of Administrative Regulations 503.030 Protected, threatened, and sensitive mammals by the State of Nevada.

- Federal Land Policy and Management Act of 1976, as amended, P.L.94-579 (43 U.S.C. §§ 1701-1782, October 21, 1976, as amended 1978, 1984, 1986, 1990-1992, 1994, and 1996).
- Clean Water Act of 1977 (33 U.S.C. §§ 1251-1376).
- Archaeological Resources Protection Act of 1979, P.L. 96-95 (16 U.S.C. 470aa-mm).
- Federal Cave Resources Protection Act of 1988, P.L. 100-691 (16 U.S.C. § 4301, as amended through P.L. 106-170, 1999).
- Native American Graves Protection and Repatriation Act of 1990, P.L. 101-601 (25 U.S.C. §§ 3001-3013).
- The Lincoln County Conservation, Recreation and Development Act of 2004, P.L. 108-424.
- The White Pine County Conservation, Recreation and Development Act of 2006, P.L. 109-432.
- Omnibus Public Land Management Act of 2009, Subtitle D, Paleontological Resources Preservation Act.
- 43 CFR Part 37—Cave Resources Management
- 43 CFR Part 6300—Management of Designated Wilderness
- 43 CFR 1610.7-2—Designation of Areas of Critical Environmental Concern

PUBLIC INVOLVEMENT

A Notice of Proposed Action in wilderness was sent to the wilderness mailing list on February 12th, 2015. The Ely District Office (EYDO) initiated public scoping with a scoping letter and news release on March 18th, 2015. Two public meetings were held on April 1st, 2015 (Caliente Field Office), and April 2nd, 2015 (Ely District Office), and two members of the public attended the meeting in Ely. Tribal consultation was initiated on July 15th, 2015.

Based on the analysis of issues raised during scoping, the EYDO Interdisciplinary Team identified the following planning issues:

- Restoration of Disturbed Areas— Past vandalism and use has degraded the naturalness of many of the caves. Restoration of the disturbed areas should be considered as well as ways of preventing future vandalism and impacts caused by use.
- Management of BLM Special Status Species and Other Rare Cave Biota— Protect caves with bat roosts and rare cave biota. Ensure bats are not disturbed during critical times (e.g., hibernation) or taken or displaced due to visitor use.
- Compatibility of Land Uses— Not all land uses are compatible with long term protection of cave resources. These non-compatible uses may include water diversion projects, exploration drilling, and mining.

- **Incomplete Resource Information**— Resource information on many caves on the District is lacking. This is especially true of the caves' biotic communities.
- **Recreational Visitor Use**— Manage recreational visitor use to minimize impacts to caves, cave formations, and cave resources.

Management guidelines for resolution of these issues are included in the Proposed Action.

PUBLIC COMMENT

In addition, a 30-day public comment period began for the Preliminary Ely District Cave and Karst Management Plan and EA on October 15, 2015 and continued through November 16, 2015. Approximately 260 comments were received from eight individuals and three agencies. Comments received from agencies include the Nevada Department of Wildlife, National Park Service, and U.S. Forest Service. Many of these comments contained overlapping issues/concerns. Public comments were compiled and analyzed. These comments helped provide additional direction to the Final Ely District Cave and Karst Management Plan and EA. Responses to comments as well as scoping and EA comment letters/emails are available for review at the BLM Ely District Office, 702 N. Industrial Way, Ely, NV.

Public comments include a broad array of concerns, summarized as:

- Site-specific management actions
- Wildlife Management, including bats and White-Nose Syndrome (WNS) decontamination protocols
- Visitor Management
- Interpretation and Education
- Safety

Many comments were incorporated, including editorial changes. Based on several comments, it was noted that areas in the Ely District Cave and Karst Management Plan and EA needed clarification. Any major changes incorporated in the document are located in the following sections:

- Section 1.3.5: Added a new section "Partnerships"
- Section 2.2: Added a new section "Best Management Practices"
- Section 3.2.1: Removed section on "Withdrawals"
- Section 3.3.1: Remove site-specific action
- Section 3.3.2.1: Removed site-specific action
- Section 3.3.5.1: Removed site-specific action
- Section 3.4.1: Clarification regarding 60% assumption of voluntary sign-in compliance
- Section 3.5.1.1: Removed "Considerations for larger groups or higher frequency"
- Section 3.5.2: Added text on how to obtain an office-issued permit

- Section 3.5.2.1: Removed frequency limits on self-issued permit, changed post-use trip reports from “strongly recommended” to “requested”, and changed self-issued permits from “mandatory” to “public participation is encouraged”
- Section 3.5.3.1: Changed Rose Guano Bat Cave’s closure dates from year-round to seasonally to protect significant bat use during maternity and migratory season
- Section 3.5.4.1: Removed site-specific action
- Section 3.6: Added section on “Hantavirus”
- Section 3.7: Added maintenance component for proposed kiosks and signs
- Section 3.7.1.1: Moved location of an interpretive sign to reduce the likelihood of vandalism
- Section 3.12.4: Added text to include the U.S. Fish and Wildlife WNS Decontamination Protocol
- Appendix 11: Added stipulations
- Added Appendix 13

RATIONALE FOR DECISION

The purpose of creating a districtwide Cave and Karst Management Plan is to provide guidance for cave management and protection, while providing for appropriate recreation, within caves across the Ely District. A cave and karst management plan is needed to establish District policy for multiple-use management practices regarding caves and cave-related resources. Cave resource management is necessary to ensure long-term protection and conservation of these fragile resources while accommodating uses such as scientific research and exploration as well as quality recreational caving experiences. The Ely District Cave and Karst Management Plan will provide a framework for cave resource management to preserve the delicate balance between natural, undisturbed ecosystems within caves, recreational caving, scientific research, and surface uses above caves. It will also establish guidance for consistency in cave protection, recreational use, the internal cave file development and management, while identifying priorities and emergency action protocols inherent in managing cave resources.

The Proposed Action, Ely District Cave & Karst Management Plan, was selected over the alternative because it met the need and objectives outlined in the plan. The Proposed Action has been analyzed, and it has been determined that there is no significant impact as referenced in the attached FONSI.

APPEAL OPPORTUNITIES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1 (enclosed). If an appeal is taken, a notice of appeal and/or request for stay must be filed in writing, on paper, in this office, either by mail or personal delivery. Notices of appeal and/or request for stay that are electronically transmitted (e.g., email, facsimile, or social media) will not be accepted as timely filed. The notice of appeal is considered filed as of the date our office receives the hard copy and places our BLM date stamp on the document. If an appeal is taken, a notice of appeal must be

filed within 30 days of either of receipt of the decision if served a copy of the document, or otherwise within 30 days of the date of decision. If sent by United States Postal Service, the notice of appeal must be sent to the following address:

Bureau of Land Management
Ely District Office
702 N. Industrial Way
Ely, NV 89301-9408

The appeal may include a statement of reasons at the time the notice of appeal is filed, or the statement of reasons may be filed within 30 days of filing this appeal. At the same time the original documents are filed within this office, copies of the notice of appeal, statement of reasons, and all supporting documentation also must be sent to the U.S. DOI Solicitor at the following address:

Regional Solicitor, Pacific Southwest Region
U.S. Department of the Interior
2800 Cottage Way, Room E-2753
Sacramento, CA 95825-1890

If a statement of reason is filed separately from the notice of appeal, it also must be sent to the following location within 30 days after the notice of appeal was filed:

Interior Board of Lands Appeals
Office of Hearing and Appeals
4015 Wilson Boulevard
Arlington, VA 22203

This Decision will remain in effect during the appeal unless a petition for stay is granted. If the appellant wishes to file a petition pursuant to regulations at 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. If the appellant requests a stay, the appellant has the burden of proof to demonstrate that a stay should be granted.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Approved by:

Michael J. Herder 4/1/16
Michael J. Herder
District Manager
Ely District Office
Date